

**IOWA RACING AND GAMING COMMISSION**  
**APRIL 16-17, 2014**  
**MINUTES**

The Iowa Racing and Gaming Commission (IRGC) met on April 16-17, 2014 at Ameristar Casino Council Bluffs, Inc., Council Bluffs, Iowa. Commission members present were Jeff Lamberti, Chair; Carl Heinrich, Vice Chair; and members Rich Arnold, Kris Kramer and Dolores Mertz.

Chair Lamberti called the meeting to order at 5:00 PM on April 16th, and requested a motion to approve the agenda. Commissioner Mertz moved to approve the agenda as submitted. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti requested a motion to go into Executive Session. Commissioner Mertz moved to go into Executive Session pursuant to, but not limited to, Iowa Code Section 21.5(1)b, g and h for the purpose of receiving Division of Criminal Investigation background reports. Commissioner Kramer seconded the motion. The motion carried unanimously on a roll call vote.

Following Executive Session, Chair Lamberti recessed the meeting until 8:30 AM on Thursday, April 17<sup>th</sup>.

Chair Lamberti reconvened the meeting at 8:30 AM, and called on Monty Terhune, General Manager of Ameristar Council Bluffs, Inc. d/b/a Ameristar Casino Council Bluffs (Ameristar). Mr. Terhune welcomed the Commission to Council Bluffs. He pointed out that Ameristar continues to invest in its team members and facility; advising they are in the process of demolishing the current marquee at the entrance, which is being replaced. The work is being performed by a local vendor. Mr. Terhune noted the vendor has not worked on a project this large in the past; both parties are excited and feel it may lead to additional projects in the future. He stated the new marquee should be up in approximately six weeks. At this time, Mr. Terhune introduced Mayor Matt Walsh.

Mayor Walsh welcomed the Commission to Council Bluffs, noting that gaming has been a great economic boon to Council Bluffs. He noted the facilities and employees contribute to the community in a variety of ways. Mayor Walsh stated he has seen multiple positives as a result of gaming in the community and very little negative.

Chair Lamberti moved to the approval of the minutes, and requested a motion. Commissioner Kramer moved to approve the minutes from the March 5-6, 2014 Commission meeting as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to announcements and called on Brian Ohorilko, Administrator of IRGC. Mr. Ohorilko recognized the following IRGC staff members in attendance: Council Bluffs Licensing Assistants: Gina Goos and Linda Baxter; Gaming Representatives at Horseshoe Casino: Carol Fajen and Corey Ostermeyer; Racing Stewards at Bluffs Run/Horseshoe: Richard

Woodsmall and Max Zaragosa; Gaming Representatives at Ameristar: Lynette Masker and Bryan Crowdy; Gaming Representatives at Harrah's: Jeff Rethmeier and Julie Petersen; and Gaming Representative in Sioux City: Pam Oliver. He thanked them for their hard work.

Mr. Ohorilko provided the following information with regard to upcoming Commission meetings:

- May 29, 2014 – Jefferson, IA – Site Visit and Public Comment, Sierra Community Theater
- June 12, 2014 – Catfish Bend Casino, Burlington (Submissions due by May 29, 2014)

He noted the May 29<sup>th</sup> meeting is dedicated to the Greene County license application. The Commission will be visiting the proposed site at 10:00 AM and begin receiving public comment at 12:30 PM at the Sierra Community Theater.

Mr. Ohorilko read the proposed meeting dates for Fiscal Year 2015:

<u>DATE</u>	<u>LOCATION</u>
July 31, 2014	Stoney Creek Inn & Conference Center, Johnston
August 28, 2014	Riverside Casino & Golf Resort, Riverside
October 9, 2014	Wild Rose Clinton, Clinton
November 13, 2014	Adventureland Inn, Altoona
January 15, 2015	Prairie Meadows Racetrack & Casino, Altoona
March 5, 2015	Prairie Meadows Racetrack & Casino, Altoona
April 16, 2015	Mid America Center/Harrah's Council Bluffs Casino Hotel, Council Bluffs
June 4, 2015	Hard Rock Sioux City, Sioux City

Chair Lamberti moved to the rules before the Commission for final adoption. Mr. Ohorilko advised the rules were prematurely presented for final adoption at the March meeting; they are now placed on the agenda for adoption in order to comply with the state rule making process. He requested the Commission approve the final adoption of the rules.

Hearing no comments or questions concerning the rules, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the final adoption of the rules as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to the review of the financial audits for the facilities, and called on Ameristar. Paul Czak, Director of Finance, was present to answer any questions.

Chair Lamberti requested a quick overview of the past year and where the property is at year-to-date.

Mr. Czak stated last year, as have the last 3 or 4 years, was very good for the property. They have experienced a stable market, and revenues and EBITDA have been increasing for the past 3 years. He noted Ameristar merged with Pinnacle Entertainment in 2012, which created a lot of excitement and growth, and a lot of changes going forward. He stated Ameristar will continue to invest in its team members and property as they have in the past. Mr. Czak stated they are very excited about the future of the new company. He stated that the current year is off to a very good start.

Commissioner Mertz asked if any big projects or renovations are planned for the next five years. Mr. Czak stated the current project is the replacement of the marquee as previously discussed. He indicated they will maintain the current level of capital expenditures. Mr. Czak stated Ameristar is always evaluating the property, and now there is a new set of eyes. He advised there are no definite items that he could speak to at this time.

Hearing no further comments or questions concerning the Ameristar financial, Chair Lamberti called on Belle of Sioux City, L.P. d/b/a Argosy Casino Sioux City. Lance George, General Manager, and Jackie Joaquin, Controller, were present to answer any questions.

Hearing none, Chair Lamberti called on Catfish Bend Casinos II, LLC d/b/a Catfish Bend Casinos II (CBC). Jerry Baum and Donald Spears, Chief Operating Officer and Corporate Controller respectively, were present to address any questions. Mr. Baum stated CBC had a 3% increase in revenue, but saw a decrease of approximately 3.4% in 2013 related to the weather in December. He further stated that in adding new patrons to the database and tracking higher-end customers, CBC has determined they are coming to the casino less often and spending less time than in 2012, which is also a contributing factor to the decline in revenue. Mr. Baum advised operating expenses remained constant, but operating income improved. In 2013, operating income was reduced by \$1 million of impairment due to the riverboat, which remains for sale. He indicated there are plans to improve the casino floor; they are currently completing an extensive air quality improvement project in the casino itself. Mr. Baum stated a \$3 million renovation project to the water park was just completed, which also included the renovation of 45 rooms in the Pzazz hotel. The interior of CBC will be renovated this year.

Mr. Baum advised the senior debt facility matures in December 2014. He stated the current interest rate is very favorable; the plan is to make a move as close to the due date as possible.

The new loan vehicle will be presented to the Commission later this year after a new lender is selected and loan terms are negotiated.

Hearing no comments or questions for Mr. Baum, Chair Lamberti called on Diamond Jo, LLC d/b/a Diamond Jo Casino (DJ). Wendy Runde, General Manager, and Lori Nelson, Regional Director of Finance, were present to answer any questions. Ms. Runde advised Dubuque's gross gaming market revenue for 2013 was down 4%; DJ's admissions were flat with 1.1 million visitors year-over-year; and gross gaming revenue at DJ declined \$2.5 million. She stated DJ employed an average of 350 in 2013, resulting in total payroll of \$13.3 million. They invested \$1.8 million in capital expenditures, and made payments of \$3 million to the Dubuque Racing Association (DRA).

Chair Lamberti asked about any capital improvements planned for this year. Ms. Runde advised there are some global initiatives being worked on due to the recent merger with Boyd Gaming. They are looking at installing "Be Connected", the universal player tracking program offered by Boyd at their other properties. The slot system is being updated in order to support the new program, and the floor is being updated as well. The warehouse will also be expanded this summer.

Hearing no comments or questions for Ms. Runde, Chair Lamberti called on Diamond Jo Worth, LLC d/b/a Diamond Jo Worth (DJW). Kim Pang, General Manager, advised their gaming revenue had declined approximately \$5 million; DJW also experienced a 9% decline in admissions. He noted they continue to draw a significant amount of their business from the Minnesota market. Mr. Pang stated they employed 310 in 2013 resulting in a payroll of \$11.5 million. He advised DJW spent approximately \$1.6 million for capital expenditures in 2013. Payments to the non-profit were in excess of \$5 million. With regard to capital expenditures planned for 2014, Mr. Pang stated they will be replacing the carpet throughout the facility, rewiring the slot floor in anticipation of the "Be Connected" program with Boyd Gaming, and getting new chairs for the slot machines and table games. Mr. Pang noted they will also be expanding the adjacent gas station on the property.

Hearing no comments or questions for Mr. Pang, Chair Lamberti called on Harvey's Iowa Management Company, Inc. d/b/a Harrah's Council Bluffs Casino and Hotel (Harrah's). Janae Sternberg, Director of Finance, advised they invested approximately \$9.5 million to move from the riverboat to a land-based facility. Results indicate it was a positive move; gaming revenue was up double digits almost every month since the move. EBITDA also increased. Ms. Sternberg advised that starting in June they will begin installing the newest technology in electronic table games, an e-table games lounge, at a cost of \$1.5 million. They will continue to infuse maintenance capital into the property. She noted the payment to the non-profit increased by approximately \$100,000 from the previous year.

Hearing no comments or questions for Ms. Sternberg, Chair Lamberti called on HGI-Lakeside, LLC d/b/a Lakeside Hotel Casino (Lakeside). Bob Thursby, General Manager, advised 2014 capital expenditures would primarily be for new slot machines, slot bases, slot chairs, and new carpet for the restaurants. Additionally, they have started to upgrade the wiring of the slot

system in anticipation of an upgrade to the system in 2015. Last year's capital expenditures were for the expansion of the hotel, adding 150 rooms for a total of 190. Mr. Thursby noted the occupancy rate is in the mid-80% range.

Hearing no comments or questions for Mr. Thursby, Chair Lamberti called on Wild Rose Clinton, L.L.C. d/b/a Wild Rose Clinton (WRC). Scott Ivers, Chief Financial Officer for Wild Rose Entertainment, advised WRC saw a decline in gaming revenue of approximately \$3 million which he attributed to increased competition from VGTs in Illinois. He advised they continue to invest in the property in terms of updating the gaming floor and slots, and refreshing the facility.

Chair Lamberti asked about any specific capital expenditures for 2014. Mr. Ivers advised expenditures would be similar to 2012 and 2013; focusing on the gaming floor and reinvesting in the facility, noting that it is approximately 6 years old.

Hearing no further comments or questions regarding WRC, Chair Lamberti moved to Wild Rose Emmetsburg, L.L.C. d/b/a Wild Rose Emmetsburg. Mr. Ivers advised Wild Rose Emmetsburg saw a slight drop in gaming revenue, which he attributed to the economy. He advised the property had seen an increase in revenue in each of the previous years of operation. Mr. Ivers advised capital expenditures were made in updating the gaming floor and keeping the facility fresh.

Commissioner Mertz asked if Wild Rose Emmetsburg is planning any major renovations or expansion either in 2014 or 2015. Mr. Ivers answered in the negative; they are just maintaining the property.

Hearing no further comments or questions concerning Wild Rose Emmetsburg, Chair Lamberti called on Riverside Casino & Golf Resort, LLC d/b/a Riverside Casino & Golf Resort (Riverside). Dan Franz, General Manager, advised 2013 revenues were flat at \$109 million and they spent a considerable amount of funds to reach that figure. He noted gaming revenue decreased 6%; slot coin in decreased 2.5% while table drop increased 2.1%. Non-gaming revenue: food and beverage set a new record with an increase of 1.4% over 2012; Mr. Franz stated comp revenue drove the increase, which was up by 6.9% while cash revenue decreased by 1.3%. With regard to hotel operations, there was an increase of 9.2% year over year, and the occupancy rate increased to 74% from 66%. Mr. Franz stated the property instituted a free and reduced rate program for resort club members to attract them to the facility and keep the gaming revenue up. Cash revenue was down 11.2%. Mr. Franz stated they are "refreshing" the hotel rooms to return them to Day 1 condition – new carpet, TV, furniture, fixture, etc. He advised golf revenues decreased 8.2% against the previous year due to weather conditions early in the season. Entertainment revenue was up just under a percentage point, while group sales revenue decreased by approximately 11.3%. EBITDA was down 7.2% from 2012 as a result of higher promotional allowances and higher expenses in an attempt to retain revenue levels. Mr. Franz stated \$3.4 million was given to the Washington County Riverboat Foundation, bringing the total amount to just under \$24 million since the facility opened. He advised taxes were timely paid; and they finished the year with a debt of \$59 million. Mr. Franz stated they had 732 employees at the end of 2013, 471 of which have been employed 2 years or longer. He stated that during

the second year of the Helping Hands employee volunteer program, over 110 employees logged over 7,700 hours of volunteer time, an increase in excess of 10% from the previous year.

Hearing no comments or questions for Mr. Franz, Chair Lamberti called on Grand Falls Casino Resort, LLC d/b/a Grand Falls Casino Resort (GFCR). Sharon Haselhoff; General Manager, noted the property received a clean audit with no internal control issues. She pointed out the facility is owned by 459 unit holders representing 750 Iowa investors. Ms. Haselhoff advised 2013 marked the second full year of operations, and provided the following figures: Gross Revenue: \$68.9 million, which was the result of \$58.1 million in gaming revenue and \$10.8 in non-gaming revenue. The breakdown for non-gaming revenue is as follows: food and beverage - \$6.3 million; hotel revenue - \$2.9 million; and \$1.7 million from retail, spa and entertainment. She advised promotional expenses were up 4.2% while costs of sales were 4.1%, leaving a gross margin of \$60.5 million. Ms. Haselhoff stated expenses totaled \$56.2 million, and provided the following breakdown: payroll, taxes and benefits - \$14.3 million; marketing and marketing promotions - \$7.5 million; and \$13.5 million in gaming taxes to the state, county and city of Larchwood; and \$2.1 million to Lyon County Riverboat Foundation. She advised EBITDA for the year was \$14.1 million. She noted the property had spent \$6.1 million on the golf course by the end of 2013. It is hoped the course will be ready for play by late summer. Ms. Haselhoff stated they have approximately 500 employees, noting they are the largest employer in Lyon County. She stated GFCR started its Above and Beyond program in 2013, which recognizes employees for providing exceptional guest service.

Hearing no comments or questions for Ms. Haselhoff; Chair Lamberti called on Bluffs Run Casino. Ms. Sternberg advised gaming revenue was down year over year, which was expected with the opening of the land-based facility at Harrah's. She advised it was a good year for Horseshoe Casino/Bluffs Run. Capital expenditures were on new slot machines and keeping the floor fresh. She noted they are currently in the midst of a large renovation with the installation of new carpeting in the casino and all food and beverage outlets. They are also doing a remerchandising project, which includes moving the games to different positions, new lighting, and painting.

Hearing no comments or questions for Ms. Sternberg, Chair Lamberti called on Iowa West Racing Association (IWRA). Pete Tulipana, Executive Director, briefly touched on some of the benefits that gaming has brought to Council Bluffs. He advised IWRA's revenues from Ameristar and Harrah's is stable at approximately \$7 million, which is down slightly from 2012, but noted revenues for the start of 2014 are up slightly.

Hearing no comments or questions for Mr. Tulipana, Chair Lamberti called on the Dubuque Racing Association (DRA). Dustin Manternach, Chief Financial Officer, reiterated the Dubuque market as a whole was down 4% and DRA's share was down about 5%. He advised DRA distributed approximately \$9.3 million to the city and local charities, \$1.7 million through their grant process, \$1.2 million to the City of Dubuque as the owner of the facility, and paid approximately \$12.5 million in salaries and \$2.8 million in benefits to the 400 employees. Mr. Manternach stated DRA refinanced their debt in 2014 and saved some interest expense. He noted they spent approximately \$3.2 million on capital expenditures for 2013, but expect that

figure to be approximately \$2.7 million in 2014, including some renovations to the floor, gift shop, and high roller area. With regard to long term development, Mr. Manternach advised they are partnering with the City of Dubuque to develop a master plan for Schmitt Island, which is where Mystique is located.

Hearing no comments or questions for Mr. Manternach, Chair Lamberti called on Prairie Meadows Racetrack & Casino, Inc. (PMR&C). Brian Wessels, Director of Finance, indicated PMR&C ended the year with \$187 million in casino revenue, which was down about 5.7% due to the remodeling project. He stated the facility employs about 1,300 with salaries, wages and benefits totaling approximately \$58 million for 2013. Mr. Wessels advised PMR&C made charitable contributions of approximately \$21 million. Capital improvements were \$18.5 million, with \$10.5 million being normal maintenance and another \$8.3 million for casino renovations. Mr. Wessel advised that starting with the hotel project and going forward, PMR&C has spent approximately \$70 million between the hotel and various remodeling projects.

Chair Lamberti asked when the remodeling projects are scheduled to conclude. Mr. Wessels indicated the spring of 2015. Chair Lamberti noted the hotel was a big addition, and asked how that was working for them. Mr. Wessels stated the hotel is meeting their expectations, and the occupancy rate for 2013 was about 76%, and has been increasing in 2014.

Hearing no comments or questions for Mr. Wessels, Chair Lamberti moved to the review of the horsemen's organizations financial audits, and called on The Iowa HBPA, Inc. and The Iowa HBPA Benevolent Trust. Jon Moss advised the organization continues to do its outreach through education programs on the backside of the track and promote best practices within the industry. He stated they continue to work with the Iowa Thoroughbred Breeders and Owners Association in order to put forward the best possible face for the thoroughbred industry in the state. The organization also does national outreach.

Hearing no comments or questions for Mr. Moss, Chair Lamberti moved to the Iowa Quarter Horse Racing Association (IQHRA) and Iowa Harness Racing Association (IHRA), noting that Mr. Ohorilko would be presenting the information on those two audits.

For the IQHRA, Mr. Ohorilko stated Tom Lepic, President, sent his regrets and a letter setting forth some of the highlights of the previous year. He noted the numbers received are unaudited, but it is anticipated the audited financial will arrive shortly. Mr. Ohorilko advised IQHRA had a net income of \$32,000 from last year; purses are not factored into the equation as they are paid directly by PMR&C. He stated a substantial amount of the IQHRA's income is derived from their Stallion Service Auction, which raised \$108,000 in 2013 – a new record. Mr. Ohorilko stated the group's initiative continues to be on the local community. Some of their main expenses are related to the Youth Days' Racing for the Future program, an educational program for youths 16-18 years old interested in the horse racing industry. He noted the IQHRA does award scholarships as part of the program, and also host a booth at the Iowa Horse Fair.

Hearing no questions concerning the IQHRA audit, Mr. Ohorilko moved to the IHRA audit. Mr. Ohorilko advised that Royal Roland had prepared a letter summarizing the audit. He stated the

IHRA's income is derived from the purse supplement codified a few years back. Their revenue was \$1.7 million, and they paid out purses of \$1.6 million in 2013. Mr. Ohorilko noted that 98% of the purses were paid to owners of horses foaled in Iowa. The IHRA believes the purse supplement has benefited them as they are seeing a steady increase in the number of foals raised by Iowans and the number of out-of-state breeders bringing mares to the state to foal.

Hearing no comments or questions regarding the IHRA audit, Chair Lamberti moved to the next agenda item, the Decision to be rendered in the contested case proceeding regarding the denial of Belle of Sioux City, L.P.'s application for renewal of its operator's license for the Argosy Casino in Sioux City. He noted a hearing on this matter was heard by the full Commission on March 5-6, 2014. Chair Lamberti advised the issue of the hearing was whether or not the applicant's lack of an operator's agreement with a qualified sponsoring organization that is licensed to conduct gambling games at the Argosy Casino in Sioux City, Iowa precludes renewal of the applicant's license to operate the Argosy Casino. Following the hearing on March 5-6, the Commission went into deliberations and instructed the Administrative Law Judge to draft an opinion and order consistent with the decision of the Commission during deliberations. Chair Lamberti noted the proposed Order was before the Commission, and stated the ruling is that the 2013-2014 License Renewal Application submitted by Belle of Sioux City, L.P., for the Argosy Casino – Sioux City is denied. The Order states the conduct of gambling games at the Argosy Casino – Sioux City shall cease on or before July 1, 2014. Chair Lamberti stated that if the Commission adopts the Decision and Order, it would become final.

Chair Lamberti moved to adopt the Decision as drafted by Administrative Law Judge Scase as the final decision of the Commission. Commissioner Mertz seconded the motion, which carried unanimously. Chair Lamberti advised the Decision has been approved, and will be the final decision of the Commission.

Mark Weinhardt, legal counsel for the Belle of Sioux City, L.P., inquired if they would be permitted to address the Commission on this matter at this time. Chair Lamberti answered in the negative.

Chair Lamberti moved to contract approvals and called on GFCR. Ms. Haselhoff presented the following contracts for Commission approval:

- Midwest Turf & Irrigation, Inc. – Golf Course Equipment
- Steffl Drilling & Pump, Inc. – Golf Course Construction – Wells & Pump
- TurfWerks, Inc. – Golf Course Equipment

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by GFCR. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on SCE Partners, LLC. Todd Moyer, General Manager, presented the following contracts for Commission approval:



- American Register Company – Hotel Equipment and Operating Supplies
- Cintas – Uniform Supplier
- En Pointe Technologies Sales, Inc. –Personal Computers, Personal Computer Software and Server Software
- Genesis Gaming, Inc. – Player Tracking System
- TCS John Huxley – Table Games Furniture/Supplies
- Tri City Electric Co. – Wireless Network and Slot Machine Switch Gear
- NRT Technologies, Inc. – Ticket Redemption Kiosks
- Micro Gaming Technologies, Inc. – Marketing Kiosks
- VSR Industries – Slot Lock Supplier
- Theresa Hartsell, LLC – Electrical Consultant and Low Voltage Coordinator

Chair Lamberti asked about a projected opening date. Mr. Moyer stated the project is on schedule for a mid-to-late summer opening, but would prefer not to release the date at this time.

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by SCE Partners, LLC. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti called on Lakeside. Mr. Thursby presented a contract with USA Security for a CCTV system.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contract as submitted by Lakeside. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on IOC Bettendorf, L.C. d/b/a IOC Bettendorf. Stacy Hall, legal counsel, presented a contract with Jim Giese Commercial Roofing to remove the existing roof and install a new roof on the south tower hotel building.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Arnold moved to approve the contract as submitted by IOC Bettendorf. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Rhythm City Casino, LLC d/b/a Rhythm City Casino (Rhythm City). Mo Hyder, General Manager, presented the following contracts for Commission approval:

- Aristocrat – Slot Machine Leases & Parts
- Atrium Finance – Guest Lodging
- Midwest Coca Cola Bottling – Coca Cola Beverages
- Data Business Equipment – 5-Year Maintenance Agreement on 2 BPS Count Room Machines
- Delta Dental of Iowa – Employee Dental Insurance Benefits
- Grand Falls Casino Resort – Support Services (RP)

- King Foodservice – Food Purchases
- Marquette Transportation – Tugboat Services for Vessel Safety during Floods
- MedOne Healthcare Systems – Prescription Drug Benefit Plan
- Myers-Cox – Cigarettes, Sundries & Candies
- Kidder Benefits Consultants/Nationwide Investments – 401K Plan Consultant/Custodian
- Reinhart Foodservice – Food Purchases
- Riverside Casino & Golf Resort – Support Services (RP)
- 7G Distributing – Beverage Purchases
- TPI – Direct Mail Advertising
- Thomas V Lasse – Lease of Warehouse Space
- US Bank – ATM Agreement
- Wells Fargo Business Elite Care – Credit Card Purchases

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by Rhythm City. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on WRC. Gus Linke, Interim General Manager, presented a contract with Per Mar Security for a new surveillance system.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contract as submitted by WRC. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Harrah's. Ms. Sternberg presented a contract with BP Canada Energy Marketing as a natural gas supplier.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Arnold moved to approve the contract as submitted by Harrah's. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Horseshoe Casino/Bluffs Run. Ms. Sternberg presented a contract with BP Canada Energy Marketing as a natural gas provider.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contract as submitted by Horseshoe Casino/Bluffs Run. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on DRA d/b/a Mystique Casino (Mystique). Mr. Manternach presented a contract with Union Hoermann to provide printing services for direct mail.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contract as submitted by Mystique. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on PMR&C. Gary Palmer, General Manager, presented the following contracts for Commission approval:

- Bolton and Company – Jockey's Accident Insurance
- EMC Risk Services, LLC – Worker's Compensation Insurance
- Graham Construction – General Contractor
- Hansen Company Inc. – General Contractor
- Keck Inc. – Gasoline and Diesel Fuel Purchases
- Light This Production, LLC – Audio and Lighting Services for Concerts
- Neumann Brothers Inc. – General Contractor
- Spielo International USA, LLC – Gaming Equipment and Supplies

Mr. Palmer advised Derron Heldt, Director of Racing, was available to address the update on the upcoming thoroughbred meet. Chair Lamberti requested the report be given prior to the Commission acting on the contracts.

Mr. Heldt advised the 2014 race meet would commence on April 18<sup>th</sup>. He noted the spring weather has been challenging due to the cold, wind, wind chills and frost, making it difficult to get the training track and main track open for the horses to train. Training was supposed to start on March 18<sup>th</sup>; however the opening of the training track was delayed by two or three days due to frost coming out of the ground. PMR&C staff felt it was unsafe for both horses and humans to be on the training track. The main track was scheduled to open the following week; however, there was still a substantial amount of frost in the ground; opening was delayed about a week and finally opened on April 2<sup>nd</sup>. Mr. Heldt stated he might have been a little overcautious with the track, but didn't want to experience any trouble with the main track in June and July. He stated PMR&C has received in excess of 1,600 stall applications; there are only 1,350 stalls available. There are approximately 870 horses on the backside currently; more are expected from around the country as thoroughbred meets at other tracks come to an end. Mr. Heldt stated the track should have close to 1,100-1,200 horses in another couple of weeks. He advised the racing secretary, Pat Pope, arrived from Oaklawn Park on Monday of this week. Mr. Heldt noted he has a lot of experience in the Midwest and east coast, which should prove beneficial in helping PMR&C build its program. He stated Wednesday, April 16<sup>th</sup> was the first day of entries, where races were drawn for opening day, and there were 10 more horses in the races compared to opening day in 2013.

Chair Lamberti called for any questions concerning the contracts. Commissioner Mertz asked how much insurance coverage PMR&C has on the jockeys. Mr. Heldt stated he thought it was around a half million. Commissioner Mertz asked if that was sufficient. Mr. Heldt stated it has been up to this point, and is aware other tracks around the country might carry more, but feels the amount here is sufficient at this time. Commissioner Mertz asked PMR&C to look at raising the amount of coverage to one million, noting that it might be cheaper to do so now rather than later. Hearing no further comments or questions, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by PMR&C. Commissioner Heinrich seconded the motion, which carried unanimously.

Mr. Palmer advised PMR&C would be celebrating its 25<sup>th</sup> anniversary this year.

Chair Lamberti moved to Public Comment, and called on Mr. Weinhardt. Mr. Weinhardt stated he was addressing the Commission's Decision to non-renew the Belle's license and ordering them to close the Argosy Casino by July 1<sup>st</sup>. He noted that each of the Commissioners was appointed by a Governor, and regardless of which Governor, who constantly talked about the importance of the business climate in Iowa, whether it was agriculture, manufacturing, insurance, or gaming. Mr. Weinhardt stated Iowans will not invest, nor are individuals from outside the state going to bring their business to Iowa, unless they have confidence in the state's business climate; they want to know the treatment they receive will be predictable, reliable and fair. He stated today's decision portends a tremendous change; it presents three red flag warnings for the gaming industry in the years to come. Mr. Weinhardt urged all of the operators to pay close attention to what has happened to Penn National (Penn). The first red flag, learned from the course of these proceedings, is the qualified sponsoring organization (qso) rules the roost; noting that Missouri River Historical Development (MRHD) made a conscious decision in 2011 to run Penn out-of-town and replace them regardless of the contractual situation between the parties. He questioned how they were legally able to do so and how the Commission was able to countenance it.

Mr. Weinhardt stated the Commission's attorneys determined the words "conduct" and "operate" mean different things in Chapter 99F of the Iowa Code; however, in the real world, the two words mean the same things. He urged everyone to read all of the filings submitted in this dispute; "conducting" is something that only a qso can do whereas "operating" is what the operator must do. "To conduct gaming" is what gives the qso all of the power in the relationship. Mr. Weinhardt congratulated the qso representatives in attendance, noting their agreement with their operator is a hostage crisis waiting to happen; they have the ability to decide what they want – a higher percentage of the revenue; a different facility; new investments, and maybe a new operator. He stated Penn's experience shows the contract between the parties doesn't matter; Mr. Weinhardt stated Penn has, and had, a contract with its qso, which made a decision to not abide by the contract or negotiate in good faith for a new contract. When the matter came to a head in June 2012, Penn asked the Commission for a fair hearing; a day in court where they could prove they had a contract and that MRHD did not follow the contract. Mr. Weinhardt stated they have not received that day yet. He noted MRHD now has a contract with Hard Rock; however, if MRHD wants to change its mind and dump Hard Rock, they can do so. He went on to say the operator could sue the qso, except the qso is just a conduit and doesn't have any assets the operator could get – certainly nothing equivalent to the millions of dollars invested in the facility. Mr. Weinhardt stated the qsos are bullet-proof, except for a couple of issues:

- If the operator provides the qso with a financial statement and lists an asset value for their license, don't believe it as it is not worth the paper it is printed on; and
- Going forward, what operator is going to want to invest in a facility?

Mr. Weinhardt questioned the fairness of the hearings held before the Commission; noting the federal constitution, state constitution, Code of Iowa, Supreme Court and common sense indicate

that if an entity possesses a license to carry on a valuable business, the license cannot be taken away without a fair hearing in front of a fair tribunal. He stated Penn received their notice in August 2013 telling them about the proceedings, the decision of which was announced today. Mr. Weinhardt stated Penn looked forward to their day in court as the notice indicated the hearing would be about whether or not they had a contract with their qso and what the contract said. He stated they prepared for their day in court, but the game changed on them. When they arrived at the hearing in March, Penn was informed the parties would not be litigating about whether or not there was a contract, but on the fact that MRHD had let its own license lapse – it didn't matter what the contract said. Mr. Weinhardt stated that was the only position the State took during the proceeding. He further stated that no one with significant knowledge of the facts would sincerely believe that MRHD's license is lapsed as the Notice establishing the hearing stated that MRHD is the qso licensed to conduct gambling games at the Argosy Casino Sioux City, the opposite of the position that was used in the hearing. Mr. Weinhardt noted that in court proceedings where lawyers are obligated to say what they believe is the truth, MRHD, the Commission, the City of Sioux City, and Sioux City Entertainment have all indicated in various court proceedings that they believe MRHD is licensed. He stated no one believes MRHD's license has lapsed; it was used as a way of changing the issue from taking a contract away from Penn so as to change the game through deception. Mr. Weinhardt stated the changing of the game at the last minute is not how judicial proceedings should be conducted.

Mr. Weinhardt stated operators have learned not to rely on what the regulators tell them. At the end of 2012, Penn was in a pickle and understood their license was continued by operation of law; however, they wondered whether they should file a license renewal application for their license or not. Penn determined they should; however, were advised it was not necessary by Mr. Ohorilko via e-mail three days prior to the deadline. Mr. Weinhardt advised Penn did prepare a license renewal, which was e-mailed to the Commission's legal counsel who red-lined the application and removed the word "renewal" out of it and returned it. Mr. Weinhardt advised that during the proceedings in March, John Lundquist, legal counsel for IRGC, stated the issue before the Commission was whether or not a 2013-2014 license application that Belle submitted to operate the casino at 100 Larsen Park Road, Sioux City, IA should be granted. He questioned if the only issue in the hearing last month was whether or not the renewal license should have been granted how the Commission could tell them not to file an application. Mr. Weinhardt noted that Penn understands they are operating by operation of law and not by a particular license application, but wondered for how long. He pointed out it would be through the length of the proceedings as there are various issues before the Court; that it is not being ended today. He asked how long Penn would get to operate while the Court is reviewing this matter. Mr. Weinhardt stated Chairman Lamberti and Mr. Ohorilko publicly stated for months that Penn would continue to operate through all judicial proceedings until the last few weeks; Penn is now being told they will close by July 1.

Mr. Weinhardt stated his client is an easy target; they are a big company from out-of-state. It is easy to say we would prefer someone more Iowa-based, more home-grown. He noted casinos are not built with funds raised in kick-starter campaigns. The Hard Rock is not built with funds from several northwest Iowans who passed around a hat; sophisticated investors largely from other states or financial capitals are the ones who will be making decisions about committing resources to make Iowa grow or not grow. They use various formulas and math to determine

the benefits of whether or not they should invest; he stated one of the terms of the equations is the reliability and predictability in how those companies are going to be treated in the state. Mr. Weinhardt stated that with the conclusion of what has happened with Penn; those equations have changed – for the out-of-state and in-state operators. He indicated that is not the future of gaming that Iowa should want.

Chair Lamberti moved to Administrative Business, and the distribution of the Horse Promotion Fund. Mr. Ohorilko advised there is \$2,908.24 for distribution. Three groups have submitted applications for the funds: Legacy Harness Horse Foundation, Iowa Thoroughbred Breeders and Owners Association and the Iowa Quarter Horse Racing Association. He stated all three entities have submitted the necessary documents to be eligible for the FY 2014 funds. Mr. Ohorilko recommended distributing the fund three ways, divided equally amongst the three entities.

Chair Lamberti requested a motion. Commissioner Mertz moved to approve the distribution equally amongst the Legacy Harness Horse Foundation, Iowa Thoroughbred Breeders and Owners Association and the Iowa Quarter Horse Racing Association. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the hearing for DRA for a violation of Iowa Code §99F.4(22), the self-exclusion provisions. He noted there is a proposed Stipulated Agreement in the matter.

Mr. Ohorilko advised Commission staff has entered into a Stipulated Agreement with DRA. He stated there was a violation of the Resolution previously implemented by the Commission which required the execution of a process to eliminate the possibility of an excluded person receiving a player's club account. An individual that signed up to be on the state-wide program in 2009 at PMR&C was playing blackjack at Mystique in January 2014. He requested a comp; the facility asked for information from the player who wrote the information down on a piece of paper. Subsequently, a player's club card was issued. Mr. Ohorilko stated DRA's policies and procedures did not require the supervisor to obtain any identification or check the state-wide list. He noted Mystique acknowledges the facts as stated are true, and has agreed to an administrative penalty between \$3,000 and \$20,000. Mr. Ohorilko advised Mystique has not had any violations of this nature in the past 365 days, and consistent with past practice, the Commission typically assesses a fine on the lower end of the range.

Chair Lamberti called on Mr. Manternach for DRA/Mystique's response. Mr. Manternach advised Mystique takes the situation very seriously, and is using this situation as an opportunity to strengthen their procedures. The procedures have been reviewed with all relevant departments to reiterate the importance of the policies and procedures.

Chair Lamberti noted there was a unique set of circumstances, but there was a weakness in the system that allowed the individual to obtain a player's club card prior to the self-exclusion list being checked. He asked if it was a failure to follow policy or a problem with the policy that has now been corrected. Mr. Manternach noted the problem has been fixed. He pointed out the individual provided the facility with an incorrect name, which was checked against the database. Mr. Manternach stated the employee issuing the card did not check the individual's ID.

Hearing no further comments or questions concerning the proposed Stipulated Agreement, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the Stipulated Agreement as submitted, and assess an administrative penalty of \$3,000. Commissioner Mertz seconded the motion, which carried unanimously.

Following a short break, Chair Lamberti stated he had received numerous inquiries as to how the rest of the day would go. He noted the next agenda item is an administrative appeal; and following the hearing, the Commission will go into Executive Session to consider the decision to be rendered; will come out of Executive Session, and proceed with the remainder of the agenda. He noted the room will have to be cleared for the Executive Session; but there will not be an additional recess.

Chair Lamberti moved to the appeal of the Administrative Law Judge (ALJ) Decision in the matter of Blane Hadley. He noted the Commission would need to move in order to see the screen. The hearing rules allow for a 10-minute argument from each side, with the appellant going first. The appellant will have five minutes for rebuttal.

F. Montgomery Brown, legal counsel for the appellant, noted Jeff Johnson from the Jockey Guild was also present on Mr. Hadley's behalf. Mr. Montgomery advised the Commission would be seeing a video of a quarter horse race at PMR&C from October 10, 2013. The horse's name is Mts No Marks On Me, and is in the fifth lane. He requested the video be played.

Following the video, Mr. Montgomery stated Mr. Hadley was riding the animal on October 10<sup>th</sup>, and it was ultimately determined by a photo finish that he lost by a nose. He stated "alleged bettors" called in to complain about Mr. Hadley's riding and failure to use a whip on an animal. The stewards reviewed the film and determined Mr. Hadley failed to give his best effort in the race due to his failure to use a whip and other factors that were undisclosed or uncertain at the time. Mr. Montgomery stated the Stewards suspended Mr. Hadley for thirty days. He advised the decision was appealed to the ALJ, and a full evidentiary hearing was held. While the ALJ affirmed the decision; he did not expressly rule on the length of the penalty which was also appealed. Mr. Montgomery stated the case was appealed to the Commission for a review of the fact that Mr. Hadley failed to ride to the best effort and the thirty day suspension. He stated if the violation is not overturned, he feels it is arbitrary, capricious and unreasonable.

Mr. Montgomery stated Mr. Hadley has chosen a profession which requires him to ride large animals, which are not particularly bright but have their own peculiar tendencies. He stated he has been told that, in this profession, two people per year are killed and several others are paralyzed or partially paralyzed. He stated that being a jockey is a dangerous profession; and noted, to his knowledge, that no one has ever been killed in the National Football League or a NASCAR race in the last decade. On the other hand, Mr. Hadley, in losing by a nose in the last 4 to 5 meters of a 300-yard race, allegedly failed to give his best efforts. Mr. Montgomery noted Mr. Hadley had ridden the horse one other time. He pointed out that Mr. Hadley had a duty to ride the horse in a manner that was safe for himself, the horse and the other riders, and keep it in its own relative lane space even though a horse track is not laned like a human track. Mr.

Montgomery stated the video reflects, if viewed objectively and as admitted by Ralph D'Amico, the State Steward, that the horse was drifting to the right and was outside of its expected lane space prior to the finish. Mr. Montgomery stated the ALJ failed to credit the following issues with regard to the horse: it had never been ridden this distance before; it had never been ridden that fast before; it did not need to be whipped; and at least one other rider refused to ride this horse due to its tendency to "lug out" to the rail and had done so after the finish in previous races. He noted Mr. Hadley was aware of the horse's tendency to "lug out". Mr. Montgomery stated it is relatively clear from the video, and which was not credited by the ALJ and testified to by Mr. Hadley, that near the finish Mr. Hadley turned to the right to determine where the No. 6 horse was because his horse was veering to the right. He stated Judge Priester's Decision is, to the extent that it fails to credit the testimony of other jockeys with regard to the horse's tendencies, Mr. Hadley's account that he did not need to whip an animal unnecessarily regardless of what the betting public desired, that the horse was running as fast as it could, and that it started to "lug out" to the right near the finish and he looked to determine where the next horse was, at best unreasonable. Mr. Montgomery stated Mr. Hadley is an athlete, and not a very big one. Every athlete, for whatever reason, does not always have his best day. Mr. Hadley is involved in a sporting activity that requires an ambulance to follow behind him and the other jockeys. He stated Mr. Hadley puts his life on the line in an attempt to win races, and in this particular case, there has been no finding of fraud or any evidence of fraud, nor any motive to do so. Mr. Montgomery noted that if Mr. Hadley had won, he would have received a larger share of the purse.

Mr. Montgomery stated it was claimed during the initial interviews that Mr. Hadley indicated he rode the horse the same way he had before; he used a whip on a slightly smaller scale in a previous race; however, Mr. Hadley denies making that statement. Mr. Montgomery indicated the statement, if made, is largely irrelevant. Mr. Hadley's viewpoint, and what he testified to, is that the horse was doing something that could endanger himself, the other horses and other jockeys and he responded. Mr. Montgomery stated the jockey should be given the benefit of the doubt in a contested matter if they are trying to maintain the safety of themselves and others as he is the one on the horse and can feel each movement. Mr. Montgomery asked the Commission to consider his arguments and those set forth in the appeal letter of February 5, 2014.

Mr. Montgomery turned his comments to the length of the penalty, noting that 30 days is a long time and Mr. Hadley has no prior violations; and is a respected and successful jockey. He stated there is no motive, if the Commission finds there is a violation, to pull the horse back in any way whatsoever as it cost him money and opportunities in the future if viewed as affecting the outcome of the race. Mr. Montgomery stated Judge Priester did not make any finding that the situation affected the outcome of the race; that the horse still wouldn't have been beaten by a nose in a 300-meter race he had never run before. He stated that 30 days was excessive in his opinion, and presented some additional exhibits. Exhibit B is a PMR&C Ruling from May 24, 2010, the most recent instance a jockey was disciplined for failure to give his best effort. He conceded it was under a somewhat different circumstance as the horse was not even going to place and the jockey was fined \$200. The Jockey Guild has conducted a survey going back at least three years, and Exhibit B1 is a spreadsheet of failure to give best efforts from around the nation. When suspension time was imposed, it was due to prior violations by the jockey. Mr.



Montgomery stated that of the numerous violations handed down across the nation; almost all of them resulted in fines between \$200 and \$500. He stated if the suspension in this matter, which was not decided by ALJ Priester, is predicated in whole or part by bettor's complaining, it is an error of law and is arbitrary and capricious.

Mr. Montgomery concluded his remarks by reiterating that Mr. Hadley risks his life on a daily basis, and asked the Commission, if it upholds the ALJ Decision which they feel is not supported by substantial evidence, to consider a suspension of 10 days or less as some jurisdictions would permit Mr. Hadley to ride in selective events in and around a suspension if it is less than 10 days. He requested the Commission strike the ruling and reverse it, or in the alternative, substantially reduce the penalty in this matter to one that is reasonable within the circumstances. Mr. Montgomery offered Exhibits B and B1.

Jeff Peterzalek, Assistant Attorney General representing the Commission, stated under Chapter 99D the Commission has jurisdiction over each and every race meeting that occurs in the state. He noted the Commissioners do not sit and personally watch every race or preside over every race that is run in Iowa but delegate the authority to the Board of Stewards, which is comprised of three individuals who do preside over and watch every single race that is run at PMR&C. Mr. Peterzalek stated the individuals on the Board of Stewards have approximately 130 years of combined horse racing experience as jockeys and trainers. The same individuals presided over the race that occurred in October 2010. He noted the stewards, having watched the live race and then watching the video after the race, unanimously believed there was a let up at the end of the race; that the jockey did not give his best effort. He also noted that patrons had called the track to complain as it was obvious to them there was a problem; that the jockey had let up. Mr. Peterzalek stated the evidentiary hearing in this matter went on for several hours, noting the State presented evidence from the Chief Steward and the trainer of the horse. The trainer also indicated that he did not feel Mr. Hadley had given his best effort in this particular race; as did the President of the Quarter Horse Racing Association after watching the video. Mr. Peterzalek stated he did not believe the culpability for the infraction itself is at issue; it is very clear from the people who know about this type of racing the infraction occurred. He believes the fighting issue is the penalty, noting many of the arguments presented by Mr. Brown were the same ones presented during the evidentiary hearing. Mr. Peterzalek stated the ALJ determined the infraction did occur; determined it didn't matter if there was a motive, nor did it matter there was no determination made as to whether the infraction affected the outcome of the race as it does not pertain to the rule in question. He stated it does impact the penalty. Mr. Peterzalek stated the lower penalties or fines were given to horses and jockeys that did not have any chance of placing or finishing. He noted that in this case, had the jockey not let up, there are indications the horse would have won, which he feels is why many of the bettors called. Mr. Peterzalek reiterated the only fighting issue is the amount of the penalty. He stated the materials provided by Mr. Brown, noting he had looked at similar information on the Racing Commissioners International website, tracked the penalties handed down during these types of infractions. He stated there are some where the penalty has been twice as long and a lot of cases where it has been less. He indicated fines were assessed in the majority of the cases where the horses did not have a chance of finishing in the money. Mr. Peterzalek stated a 30-day suspension is a lengthy suspension, and the documents before the Commission show it is longer than most of the suspensions. He

reiterated the length of the suspension is the issue. He pointed out the Commission has the same jurisdiction and authority as is given to the Stewards who preside over the race. Mr. Peterzalek stated the State is asking the Commission to determine whether the penalty is appropriate.

Chair Lamberti called on Mr. Brown for any rebuttal. Mr. Brown reiterated the horse in question has tendencies which are dangerous to its rider, which Mr. Hadley knew. He stated that while most of us like to maintain we are fearless in our professions, it is not always true; that in the face of danger we will behave differently, which can affect our performance. Mr. Brown suggested that as the explanation for what the Stewards perceived from the video. He stated that in considering whether to reverse the finding or evaluating the length of penalty, the Commission should take into consideration the fact jockeys risk their lives on a daily basis, and are subject to the same human frailties of fear and anxiety as everyone else, and sometimes they just have a bad day. He pointed out that Mr. Johnson was thrown over the rail during a race at PMR&C in the 1990's by a horse that lugged out. Mr. Brown stated, based on the totality of the circumstances of the alleged offense and the characteristics of the appellant, who has no prior disciplinary action against him and is highly regarded in the industry, the 30-day suspension is unreasonable. He reiterated there is some significance to reducing the length to 10 days. He requested the suspension, if not overturned, be reduced to 10 days or less.

Chair Lamberti asked Mr. Peterzalek if he had anything further to present. Mr. Peterzalek advised he did not.

Chair Lamberti called for a motion to go into Executive Session. Commissioner Mertz moved to go into Executive Session pursuant to Iowa Code Section 21.5(f) for the purpose of discussing the decision to be rendered in a contested case conducted according to the provisions of Chapter 17A. Commissioner Kramer seconded the motion, which carried on a unanimous roll call vote.

Following the conclusion of Executive Session, Chair Lamberti reconvened the meeting in open session. Chair Lamberti moved to affirm the Decision of the ALJ and to modify the penalty provision of the Order from a 30-day suspension to a 20-day calendar suspension with the suspension to begin on the first race day of PMR&C's 2014 quarter horse meet. He requested a second to the motion. Commissioner Mertz seconded the motion, which carried unanimously. Chair Lamberti stated an order would be issued pursuant to the motion.

Chair Lamberti moved to the last item on the agenda – the decision regarding the application of Cedar Rapids Development Group, LLC and Linn County Gaming Association, Inc. with respect to a gambling structure license in Linn County. He noted past practice has been for each Commissioner to make comments prior to a decision being issued.

Commissioner Heinrich stated he has been reviewing the proposal based on the criteria set forth in the law and all of the data and information received over the previous months. He commended the principals for the planning, preparation and presentations as all were clear, and precise. He stated the application and principals are in compliance with the law, have a high degree of integrity, have submitted information showing the positive effect in Linn County, had adequate financing, and excellent plans for the casino. Commissioner Heinrich stated he did not

have any question about those criteria and the information provided; that is not the issue in his mind. He stated his concern is the impact on the existing operations, noting he has expressed the sentiment in meetings with individuals representing Linn County and those opposed to the proposed facility. He indicated he also needed to be cognizant of the effect on the State and the various communities that would be impacted by the Commission's decision. Commissioner Heinrich noted he received a significant amount of correspondence from individuals that would be affected, both in and out of Linn County, which were well thought out. He stated his understanding, from the information received, is that a Cedar Rapids casino would affect gross revenues of existing operations, and employment opportunities – positive and negative. Commissioner Heinrich commented on the amount of community support exhibited in Linn County, as well as the communities with existing casinos. He advised another important area for him was the population growth, noting Iowa is not growing at a significant rate. He wondered if the Commission continues to grant licenses if they are just shifting financial resources and jobs or adding economic benefits to local communities and the State. Commissioner Heinrich stated he did not believe eastern Iowa is underserved; that if anyone does desire to gamble, they can reach an existing facility in approximately one hour in most cases; and that a new license would impact existing operations in eastern Iowa to different degrees. He stated the overall net benefit for the State gaming industry in eastern Iowa in terms of total operations is not sufficient enough to add a new license at this time.

Commissioner Mertz thanked the Cedar Rapids group and commended them for their efforts. She indicated this was a hard decision for her. She advised that in rereading the studies, they were all about cannibalization, but did not include anything about entertainment venues or new businesses that would or could start up as a result of the proposed casino. In reading between the lines, she got the message “No more gaming. No more gaming.” from the studies. She sees the revenues from the proposed casino as “new money” that would be available to the State. She noted the Cedar Rapids legislative delegation requested \$8 million in trail money; she stated that it should not have to come out of the taxpayer's pocket; it should come from the community. Commissioner Mertz expressed concern about the amount of tax dollars going to things that communities should be doing themselves, or at least partially with some assistance from the State. She noted there are 16 criteria points. She stated it is not her intent to put anyone out of business or have individuals lose their job, but feels the percentage by which the referendum passed and the community support should be taken into consideration. Commissioner Mertz stated she is a farmer and puts herself at risk every day; she likened gaming to farming – let the market drive the industry. She commented on the number of letters she received, which she divided between pros and cons; and the pros outweighed the cons. Commissioner Mertz stated she would be casting a yes vote.

Commissioner Kramer commenced her comments by apologizing to those who would not like her decision; but indicated she had a decision to make that she believes is right for the State of Iowa and uphold the integrity of the Commission. She thanked Cedar Rapids for their warm welcome; noting that it was great to see the city starting to rebuild after the devastation of the floods. While she feels the support and passion for the project within the community; she also sees the passion on the other side – the fear of lost jobs, the viability of surrounding casinos, loss of revenue to non-profits and the trickle-down effect that comes from that, and the saturation of

casinos in eastern Iowa. She stated she has spent hours reading the letters, e-mails and taking phone calls; noting this issue has been on her mind constantly. After reviewing the criteria, the economic impact criteria weighed on her heavily. The Commission hired two experienced companies to perform studies, both of which indicated the Iowa market is approaching saturation. Commissioner Kramer stated granting a license to Cedar Rapids would signal a significant shift in policy where the impact is estimated to be in excess of 30% on an existing property. She stated she also feared how the Commission would address future applications in Iowa if they ignore the results of the studies. Commissioner Kramer stated she could not support the Cedar Rapids application for the above stated reasons.

Commissioner Arnold thanked the residents of Cedar Rapids for the warm welcome. He also indicated this has been a very difficult decision; and that he has received and read numerous letters and e-mails both in support and opposition to the license. In addition to the letters, the Commissioners also heard the presentation from the applicant, reviewed the application, and received public testimony. Commissioner Arnold stated he had reviewed various materials sent to the Commission, and documents prepared by Commission staff and various stakeholders, and spent considerable time reviewing the market studies and the licensing criteria in the Administrative Rules. He stated the application meets many of the criteria that are to be taken into consideration in making a decision on whether to grant or deny an application; specifically it has strong community support and is a first class development with a number of amenities. Commissioner Arnold stated he has several concerns that many of the criteria related to the economic impact were not met; he is most concerned by the fact the market studies indicate the application would affect revenues by more than 10% at two facilities and Riverside having a possible impact of 42%. He noted the Commission received three additional studies for review from various stakeholders, with two of them showing similar results to the market studies completed on behalf of the Commission. Commissioner Arnold pointed out that existing Iowa statutes and Administrative Rules require the Commission to consider the impact on other casinos, which would likely trickle down to decreased investment in their properties and result in a loss of jobs. He stated no gaming license in Iowa has ever been issued when such a high percentage of impact has been shown on existing facilities. Commissioner Arnold stated he must oppose granting the license.

Chair Lamberti also indicated the decision making process has been very difficult for him. He stated the Commission tries to conduct the licensing process in an open and fair manner where all parties are given a fair opportunity to present their case to the Commission members, and feels confident that goal has been met. He also expressed confidence in the individual Commission members doing their best to arrive at what they feel is the correct decision; noting some people will be disappointed in the decision. Chair Lamberti stated the decision-making process starts with Iowa law, which does not give a lot of guidance; it simply states the Commission shall determine the number and location of such facilities. He stated Iowa is probably the only state in the nation that puts that much authority and discretion in the hands of their Commission as opposed to the Legislature and Governor giving much more guidance. The criteria to be considered in whether to grant a license are developed by the Commission, and they have the ability to weigh the various criteria and give different weights to those elements.

Chair Lamberti stated that in making his decision, he looked at the history and actions of previous Commissions; where they started and where the Commission is at today with respect to gaming and the gaming industry in Iowa. He noted the Commission in Iowa has never taken the position that it is a free-market system for gaming in Iowa; they have not done so in their interpretation of the law, in the promulgation of rules, and, most importantly, in the decisions that have been made relating to the number and location of gaming facilities in Iowa. He feels the Commission has attempted to take a balanced approach in considering new licenses; the Commission looks at economic impacts on the local community, jobs, benefits to the State and the various communities with the overarching goal of providing a stable and predictable gaming environment in Iowa. Chair Lamberti stated the Commission expects and requires significant investment in the facility when a license is granted, but they also expect an ongoing commitment to capital investment to improve the facilities and keep them modern and competitive, and free from significant disruptions. He stated previous Commissions have done a good job of creating a stable and predictable gaming environment.

Chair Lamberti stated that when he looks at the Cedar Rapids application, he would echo the comments of the other Commissioners; there is no question about the quality of the application and proposal submitted. He stated it would pass the majority of the criteria with flying colors; there was nothing further the applicant could have done to improve the quality of the proposal. However, Chair Lamberti advised the Commission does not have the luxury of reviewing the application in isolation; they have to be mindful of what has happened in the past and the current gaming environment. He noted the Commission engaged two companies to provide market studies, and while not perfect, believes the studies were reliable and provided the Commission with information, in part, needed to reach their decision. Chair Lamberti stated that for him to approve the application would be a substantial change in the policies and approach of the Commission in issuing new licenses. He believes the impact on existing facilities is too large and presents the risk of destabilizing the gaming market in Iowa; and would be a significant policy change from the Commission's previous emphasis on significant investment in the facilities both initially and ongoing. Chair Lamberti stated he was not prepared to make that change in policy or balanced approach of previous Commissions and potentially disrupt the stable gaming environment in Iowa; that it would be a significant precedent in how the Commission looks at licenses and new license applications. Chair Lamberti stated he believes previous Commissions have adopted the balanced approach in order to maintain a healthy, stable environment to encourage significant investments and not allow new licenses where there would be a significant impact or impairment on existing facilities. He noted it has been a consistent theme in recent years, and believes the current Commission will be continuing that direction today. Chair Lamberti stated the Legislature and Governor could adopt different policies with respect to new licenses in Iowa; the Commission operates within the environment of Iowa law. He indicated if they elect to do so, he believes it would require them to look at the tax rates and how much gambling the state wants. He noted the current decision is being made under existing statutes and rules, and it matters when the Commission's studies indicated a significant economic impact on existing facilities and setting a precedent the Commission has never done before in terms of the significant economic impact on existing facilities. Chair Lamberti concurred with previous comments about the community support and hard work behind the application; stating it

is not fun to go through this process but believes the Commission as a whole is making a decision they feel is in the best interest of the State of Iowa.

Chair Lamberti moved to deny, without prejudice, the application of Cedar Rapids Development Group, LLC and Linn County Gaming Association, Inc. Commissioner Heinrich seconded the motion. The motion carried on a 4-1 vote, Commissioner Mertz voting no.

Chair Lamberti requested a motion to adjourn the meeting. Commissioner Mertz so moved. Commissioner Kramer seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

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JULIE D. HERRICK